

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

ARCHIE L. HENRY,

Movant,

v.

UNITED STATES OF AMERICA,

Respondent.

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No. 3:13-cv-0824

Chief Judge Sharp

ORDER

Before the Court is Archie Henry's motion under 28 U.S.C. § 2255 to set aside, vacate and correct an allegedly illegal sentence imposed by this Court on July 24, 2012. The Court previously issued a memorandum and order dismissing all claims in the motion except one, in which the movant asserted that that his defense attorney failed to file a notice of appeal despite an unequivocal and timely request that he do so. The Court appointed counsel for the movant and held a hearing on October 22, 2014 to resolve a disputed issue of fact as to that claim, that is: whether the movant expressly instructed his trial attorney to file a notice of appeal. As explained in the Memorandum Opinion filed herewith, the Court credits the hearing testimony of the movant's trial counsel, who testified that the movant did not ask him to file a notice of appeal, and that he would have filed a notice if his client had directed him to do so.

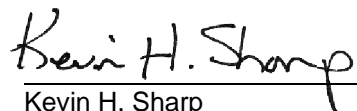
Because the movant has not established that he is entitled to relief on the basis of this claim, the claim is **DENIED**.

The Court having disposed of all claims asserted therein, the motion is **DENIED** in its entirety and this action is **DISMISSED**.

As also discussed in the Court's Memorandum, the Court finds that the movant has not made a "substantial showing of the denial of a constitutional right," 28 U.S.C. § 2253(c)(2), and therefore **DENIES** a certificate of appealability (COA). The movant may, however, seek a COA directly from the Sixth Circuit Court of Appeals. Fed. R. App. P. 22(b)(1).

It is so **ORDERED**.

This is the final judgment for purposes of Fed. R. Civ. P. 58.

A handwritten signature in black ink that reads "Kevin H. Sharp". The signature is written in a cursive, flowing style. The "K" is large and loops around the "e". The "H" is formed by two vertical strokes. The "S" is a large, sweeping letter. The "h" is smaller and loops under the "S". The "a" is a simple loop. The "r" is a vertical stroke with a small hook. The "p" is a vertical stroke with a long, sweeping tail that loops under the "r".

Kevin H. Sharp
Chief Judge, United States District Court